IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Crl.Rev.Pet.No. 106 of 1998()

CR.38/1995 of ADDL.SESSIONS COURT, PARAVUR
SC.40/1994 of ADDL. ASST. ASSISTANT SESSIONS COURT, PARAVUR

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REVN. PETITIONER: APPELLANT/ACCUSED

JOSHI, S/O.KURIAN, PAINADATH VEEDU
KARU, KUTTY KARA, KATUKUTTY VILLAGE.

BY ADV. SRI.N.A.MURALEEDHARAN

RESPONDENTS: COMPLAINANT STATE

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.R.P.NO.106/1998

ORDER ON CRL.M.P.NO.671/1998 IN CRL.R.P.NO.106/1998

DISMISSED

6.7.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

Crl.R.P.No.106 of 1998

Dated this the 6th day of July, 2007

O R D E R

The revision petitioner is the accused in S.C.No.40/94 in the file of the Additional Assistant Sessions Court, North Paravur for the offence under Section 307 IPC who was found guilty and sentenced to undergo R.I. for four years.

2. The prosecution case is that on 27.10.1992 at about 6.45 p.m., the accused confronted the defacto complainant/PW1 in the pathway in the middle of a paddy field, attacked him with MO1 chopper and inflicted cut injuries.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 11, Exts. P1 to P10 and Mos' 1 to 7. PW1, the victim and PWs' 2 and 3, the occurrence witnesses have supported the prosecution version. PW4, another occurrence witness, turned hostile. The injuries sustained, as per Ext. P5 wound certificate proved through PW8, are multiple cut injuries over the midline anterior scalp and font of parietal region and right occipital region, cut injury exposing maxilla

with loss of teeth, compound fracture on the left middle figure, compound fracture on the right ring finger and amputation through distal interphalangeal joint. The evidence of PWs' 1 to 3 that include the victim did not contain any material discrepancies and contradictions as such. No contradictions with respect to the previous statement of the above witnesses have been brought out. They have identified MO1 chopper as well as the accused. The injury sustained has been proved through PW8, the doctor, who has proved Ext. P5 wound certificate. It is the evidence of PW1 that the accused inflicted injuries uttering that he was searching for him and that he will do away with him. In the circumstances and in the light of the evidence adduced and considering the nature of the injuries sustained, I find that the prosecution has succeeded in establishing the case beyond reasonable doubt. In the result, the concurrent findings of conviction of the offence under Section 307 IPC is confirmed.

4. Counsel for the revision petitioner has pleaded for leniency pointing out that the accused is a mentally disturbed

person and that he was under treatment. It is also submitted that he has two sisters who are also mentally challenged persons. The same has been mentioned when the accused was questioned under Section 313 Crl.PC. The above submissions made by the counsel for the revision petitioner was not disputed. Since the date of the incident, 15 years have elapsed and so far the accused was facing the criminal proceedings. It is also seen that at the time he was aged 22 only. It is also mentioned that the accused hailed from very poor circumstances and he would not be able to raise any amount if compensation or fine is imposed.

5. In the circumstances and considering the fact that 15 years have elapsed since the date of the incident, the sentence is modified as follows: that the accused shall undergo R.I. for six months for the offence under Section 307 IPC.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl